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OFFICE OF PETITIONS

In re Patent No. 7,288,537	:	
LE GRAND et al.	:	DECISION ON REQUEST FOR
Issued: October 30, 2007	:	RECONSIDERATION OF PATENT
Application No. 10/507,139	:	TERM ADJUSTMENT AND
Filed: September 9, 2004	:	NOTICE OF INTENT TO ISSUE
Atty. Docket No. PR/4-32412A	:	CERTIFICATE OF CORRECTION

This is a decision on the "PETITION REGARDING PATENT TERM ADJUSTMENT UNDER [37] C.F.R. § 1.705(d)" filed December 20, 2007. Patentee requests that the Patent Term Adjustment for the above-identified patent be corrected from one hundred thirty-eight (138) days to one hundred fifty-three (153) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **one hundred fifty-three (153) days**.

On October 30, 2007, the above-identified application matured into U.S. Patent No. 7,288,537. The instant request for reconsideration was timely filed on December 20, 2007, within two months of the date the patent issued. See 37 CFR 1.705(d). The patent issued with a revised Patent Term Adjustment of one hundred thirty-eight (138) days.

Patentee disputes the reduction of fifteen (15) days for patentee's delay in responding to the Notice of Allowance and Fee(s) Due mailed on May 21, 2007. A review of record support a

conclusion that the reduction of fifteen (15) days disputed by patentee is not warranted.

On May 21, 2007, the Office mailed a Notice of Allowance and Fee(s) Due, requiring payment of the issue fee and publication fee on or before August 21, 2007. In the absence of the timely payment of the issue fee and publication fee, the application became abandoned on August 22, 2007. On September 5, 2007, patentee filed a petition under 37 CFR 1.137(b) to revive the application, accompanied by the petition fee, the issue fee, and the publication fee. On September 19, 2007, the Office mailed a decision granting the petition.

Abandonment of the application, as well as failure to reply within three months of the mailing date of the Notice of Allowance and Fee(s) Due are both grounds for reduction of PTA. See 37 CFR 1.704(c)(3) and 37 CFR 1.704(b).

In this instance, the periods under 37 CFR 1.704(c)(3)(i) and 37 CFR 1.704(b) overlap. Specifically, the period of overlap is August 22, 2007 to September 5, 2007. The period of adjustment was reduced pursuant to 37 CFR 1.704(c)(3)(i) by twenty-nine (29) days, the number of days beginning on the date after the date the issue fee was due, August 22, 2007, and ending on the lesser period of the date of mailing of the decision reviving the application, September 19, 2007. The period of reduction of fifteen (15) days for failing to reply within three months of the mailing date of the Notice of Allowance and Fee(s) Due is completely overlapped. As overlapping days are only counted once, the Office should not have assessed patentee the period of delay of fifteen (15) days pursuant to 37 CFR 1.704(b).

The $200.00 fee under 37 CFR 1.18(e) will be charged to counsel's Deposit Account as authorized.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one hundred fifty-three (153) days.**

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Kery A. Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,288,537 B2

DATED : Oct. 30, 2007

INVENTOR(S) : Le Grand et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 138 days

Delete the phrase "by 138 days" and insert – by 153 days--

Day : Tuesday
Date: 6/17/2008

PALM INTRANET

Time: 14:39:34

PTA Calculations for Application: 10/507139			
Application Filing Date:	09/09/2004	PTO Delay (PTO):	259
Issue Date of Patent:	10/30/2007	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	121
Post-Issue Petitions:	0	Total PTA (days):	153
PTO Delay Adjustment:	15		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
58	06/17/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	15		
54.5	10/10/2007	PTA 36 MONTHS			
54	10/30/2007	PATENT ISSUE DATE USED IN PTA CALCULATION			
53	09/25/2007	EXPORT TO FINAL DATA CAPTURE			
52	09/24/2007	DISPATCH TO FDC			
51	09/21/2007	APPLICATION IS CONSIDERED READY FOR ISSUE			
50	09/05/2007	ISSUE FEE PAYMENT VERIFIED		15	37
49	09/19/2007	MAIL-RECORD PETITION DECISION OF GRANTED TO ACCEPT DELAYED PAYMENT OF ISSUE FEE		29	37
48	09/05/2007	PETITION ENTERED			
47	09/07/2007	MAIL ABANDONMENT FOR FAILURE TO PAY ISSUE FEE			
46	09/07/2007	ABANDONMENT FOR FAILURE TO PAY ISSUE FEE			
45	09/05/2007	ISSUE FEE PAYMENT RECEIVED			
44	08/09/2007	FINISHED INITIAL DATA CAPTURE			
43	07/16/2007	WORKFLOW - QUERY REQUEST - FINISH			
42	07/13/2007	TC RETURN TO PUBS			
41	07/09/2007	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
40	06/07/2007	PUBS CASE REMAND TO TC			
39	06/11/2007	WORKFLOW - QUERY REQUEST - BEGIN			
38	05/28/2007	EXPORT TO INITIAL DATA CAPTURE			
37	05/21/2007	MAIL NOTICE OF ALLOWANCE			
		MAIL EXAMINER INTERVIEW SUMMARY (PTOL			

36	05/21/2007	- 413)			
35	05/21/2007	MAIL EXAMINER'S AMENDMENT			
34	05/17/2007	ISSUE REVISION COMPLETED			
33	05/17/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
32	05/17/2007	CASE DOCKETED TO EXAMINER IN GAU			
31	05/15/2007	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
30	05/15/2007	DOCUMENT VERIFICATION			
29	05/15/2007	EXAMINER'S AMENDMENT COMMUNICATION			
28	05/14/2007	NOTICE OF ALLOWABILITY			
27	05/03/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
26	04/05/2007	DATE FORWARDED TO EXAMINER			
25	03/20/2007	RESPONSE AFTER NON-FINAL ACTION		77	23
24	03/20/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
23	10/02/2006	MAIL NON-FINAL REJECTION			
22	09/29/2006	NON-FINAL REJECTION			
20	09/09/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
19	09/19/2006	CASE DOCKETED TO EXAMINER IN GAU			
18	06/30/2005	CORRECTED FILING RECEIPT			
16	09/07/2006	DATE FORWARDED TO EXAMINER			
15	08/25/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
14	07/26/2006	MAIL RESTRICTION REQUIREMENT	259		-1
13	07/24/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
12	07/20/2006	CASE DOCKETED TO EXAMINER IN GAU			
11	01/24/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
10	01/24/2006	CASE DOCKETED TO EXAMINER IN GAU			
9	05/18/2005	REFERENCE CAPTURE ON IDS			
7	09/09/2004	PRELIMINARY AMENDMENT			
6.7	09/09/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
6	09/09/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
5	06/28/2005	CLEARED BY OIPE CSR			
4	09/09/2004	371 COMPLETION DATE			

3	05/18/2005	APPLICATION DISPATCHED FROM OIPE			
2	05/18/2005	NOTICE OF DO/EO ACCEPTANCE MAILED			
1	09/09/2004	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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